

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TENNESSEE
AT KNOXVILLE

SMOKEYS HOTEL MANAGEMENT INC.,)

Plaintiff,)

v.)

Case No. _____

ENDURANCE AMERICAN SPECIALTY)
INSURANCE COMPANY,)

Defendant.)

NOTICE OF REMOVAL

Defendant, Endurance American Specialty Insurance Company (“Endurance” or “Defendant”), files this Notice to remove to this Court an action brought against it and currently pending in the Circuit Court for Sevier County, Tennessee, Case No. 18-CV-786 III, and with respect thereto would show this Court as follows:

I.

The above-styled cause was commenced in the Circuit Court for Sevier County, Tennessee, Case No. 18-CV-786 III, by virtue of a Complaint filed by Plaintiff on November 27, 2018, against Defendant. Defendant was served with process through the Tennessee Commissioner of Commerce and Insurance on December 4, 2018. In its Complaint, Plaintiff alleges, among other things, breach of contract, against Defendant. A jury was demanded by Plaintiff.

Pursuant to 28 U.S.C. § 1446(a), copies of the aforementioned Complaint and all documents served upon Defendant are attached hereto as Exhibit A and made a part of this

Notice by reference. By removing this action, Defendant is not waiving any defenses available under Rule 12, Fed. R. Civ. P., including, but not limited to, improper venue, insufficiency of process and insufficiency of service of process.

II.

The time period within which Defendant is required to file this Notice of Removal pursuant to 28 U.S.C. § 1446 has not yet expired. Since the date on which Defendant was served with the summons and a copy of the Complaint, there have been no other proceedings in this case in the Circuit Court for Sevier County, Tennessee.

III.

This action is one of a civil nature for damages claimed as a result of allegations of, among other things, breach of contract, against Defendant. Plaintiff's action is civil in nature, and this Court has original jurisdiction over Plaintiffs' action under the provisions of 28 U.S.C. § 1332. Specifically, this action involves citizens from different states and, upon information and belief, the amount in controversy exceeds the jurisdictional minimum of \$75,000.00. While Plaintiff does not allege any specific amount of damages in its Complaint, it appears the amount in controversy exceeds the jurisdictional minimum based on the nature of the allegations. Therefore, this action arises under federal law, and this Court has original jurisdiction.

IV.

The requisite diversity of citizenship exists, as provided in 28 U.S.C. § 1332. Upon information and belief, Plaintiff is a citizen and resident of the state of Tennessee. Defendant is a Delaware corporation with its principal place of business in the state of New York.

VI.

Defendant is contemporaneously filing a Notice of Filing Notice of Removal, pursuant to 28 U.S.C. § 1446(d), with the Sevier County Circuit, a copy of which is attached hereto as Exhibit B.

VII.

The allegations of this Notice are true and correct to the best of Defendant's knowledge and within the jurisdiction of the United States District Court for the Eastern District of Tennessee, and this cause of action is removable to the United States District Court for the Eastern District of Tennessee.

WHEREFORE, Defendant Endurance American Specialty Insurance Company files this Notice for the purpose of removing this action from the Circuit Court for Sevier County, Tennessee, to the United States District Court for the Eastern District of Tennessee.

Respectfully submitted,

s/ P. Edward Pratt

P. Edward Pratt (BPR No. 012758)
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*Attorney for Defendant
Endurance American Specialty
Insurance Company*

CERTIFICATE OF SERVICE

The undersigned certifies that on January 3, 2019, a true and correct copy of the foregoing was filed electronically and has been served upon the following parties in interest herein by mailing same to the offices of said parties in interest by United States Mail with sufficient postage thereon to carry the same to its destination.

J. Brandon McWherter
Jonathan L. Bobbitt
Gilbert McWherter Scott & Bobbitt PLC
341 Cool Springs Blvd., Suite 230
Franklin, Tennessee 37067

Clinton H. Scott
Gilbert McWherter Scott & Bobbitt PLC
101 North Highland
Jackson, Tennessee 38301

Rita Ellison
Circuit Court Clerk
Sevier County Circuit Court
125 Court Avenue
Sevierville, Tennessee 37862

s/ P. Edward Pratt

P. Edward Pratt